



AZ POST ***INTEGRITY BULLETIN*** ***Volume No. 27***



The Arizona Peace Officer Standards and Training Board (AZ POST) is mandated by the legislature to establish and enforce the physical, mental, and moral fitness standards for all peace officers in the state. The Board meets the charge to protect the public by overseeing the integrity of Arizona's law enforcement officers by reviewing cases and taking action against the certification of individuals who violate the AZ POST Rules. The following is a summary of some of the actions taken by the Arizona Peace Officer Standards and Training Board at its **May 2006 and June 2006**, public meetings. These actions are not precedent setting, in the sense that similar cases will end with the same result, because each case is considered on its individual facts and circumstances. Having said that, this Board publishes this bulletin to provide insight into the Board's position on various types of officer misconduct. As always, the Compliance Specialist for your agency is available to discuss any matter and to assist you with any questions you might have. The "Editor Notes" and the "Frequently Asked Questions" section are historical observations and insights for training and discussion purposes only.

May 2006 and June 2006

CASE NO. 1

FALSE TIME ACCOUNTING

Officer A falsified his weekly activity reports for a ten month period of time by counting verbal warnings as traffic stops. The department had a policy that officers must document every traffic stop with a citation, written warning, repair order or other approved written document. Officer A intentionally violated that policy and covered it up by falsely counting the contacts as traffic stops on his weeklies. The Board found mitigation in the fact that the officer was truthful about his misconduct during the internal affairs investigation. The Board adopted a consent agreement allowing the officer to surrender his peace officer certification until lapse.

Editor's Note: Whenever a peace officer leaves the employment of a law enforcement agency his certification becomes inactive. If the officer goes to work for another agency, after the usual background investigation and POST audit, certification is reactivated. If certification is inactive for three years, certification lapses and the officer is no longer certified. A former officer whose certification has lapsed may apply anew for certification, but he must meet all the current minimum qualifications and either repeat the academy or pass the waiver test.

CASE NO. 2

DUI DRUGS AND ALCOHOL ON DUTY

Deputy B was en route to a call for service when dispatch received citizen calls reporting that he was driving erratically. A citizen was able to stop the deputy and paramedics responded and transported him to the hospital. Blood tests showed benzodiazepines (valium) and a BAC of .099 percent. He had no prescription for a drug that would result in the positive drug test. The Board revoked his certification for malfeasance in office and conduct that tends to diminish public trust in the law enforcement profession.

CASE NO. 3**UNTRUTHFUL TO SUPERVISOR**

Officer C hosted a party during which he demonstrated the Taser to his guests by drive-stunning himself and two guests. After he had put the Taser away, a guest found it and discharged the Taser into a bedroom wall. While Officer C was on the phone reporting the incident to his sergeant, another guest discharged it into the closet door. Officer C did not tell his supervisor about the drive-stuns and he conspired with one of his guests to conceal the fact of the drive-stuns. When a sergeant took possession of the Taser and told Officer C that a download of Taser would reveal each time the instrument had been activated, the officer told him he had "sparked" it a few times to show his guests, but he did not mention the drive-stuns. An internal investigation began and Officer C was read the Garrity admonitions. He was then completely truthful about the events and his failure to report truthfully to his supervisor. The Board found that his truthfulness to IA was a mitigating fact and suspended his peace officer certification for one year from the date of his termination from the agency.

CASE NO. 4**CHEATING IN THE ACADEMY**

Cadet D took an unauthorized notepad into an academy examination. During the test, he transferred the correct answers from the notepad to his test. The Board denied him peace officer certification for malfeasance in office and conduct that diminishes public trust in the profession.

CASE NO. 5**SEX WITH INFORMANT**

Detective E engaged in a sexual relationship, including on-duty conduct, with an informant. He lied to investigators by denying that she was in his apartment. They discovered her hiding inside the apartment. The Board revoked his certification for malfeasance in office and conduct that jeopardizes public trust in the profession.

CASE NO. 6**ABUSE OF AUTHORITY**

Deputy F had his hair cut two or three times by a woman we will call "Sue." He left a note on her car asking her to call him and signed his first name. She called the number because she had several clients with that name and she did not know which one it was. He told her he needed to speak to her in private and showed up at the salon the next day. Deputy F told Sue that he had to stop having her cut his hair. He said his wife did not like him going there because Sue was too attractive. A few days later, Sue was driving to work and she was pulled over by Deputy F who told her there was no violation but he had stopped her because she was the best looking thing he had seen that morning. Sue went to work, upset and said a deputy was stalking her. About a week later, Deputy F saw that Sue had new plates on her car and he ran an ACJIS check on the plates. He specifically requested a physical address during the recorded conversation with dispatch. The following Sunday night, Deputy F showed up at Sue's residence uninvited and unannounced. He told her he had been out driving around after getting into an argument with his wife. He also told her that he was attracted to her. She responded that he was married, that she respected that and that nothing would come of the attraction. After about 20 minutes, Sue told Deputy F that she was tired and wanted to go to sleep, so he left. Ten days later, Deputy F walked into the salon to see Sue under circumstances that led him to believe she was alone. He saw her with a client, had a brief discussion and left. The next day, Sue's employer called the department to report that the deputy was stalking her employee and she was fearful and afraid to report the behavior herself. The department investigated and after Garrity admonitions, Deputy F lied to the investigator repeatedly about not going to Sue's house and about not asking for her address on the ACJIS check. The matter went to a hearing before an independent administrative law judge of the Office of Administrative Hearings. The judge found that Deputy F pulled Sue over without reasonable suspicion, unlawfully used ACJIS and lied to IA numerous times. The Board revoked his certification for committing an offense involving dishonesty (false info to a peace officer), malfeasance in office and conduct that

diminishes public trust in the profession.

CASE NO. 7

FALSIFIED WEEKLIES AND LYING TO INTERNAL AFFAIRS

Officer G was emotionally distraught over family problems. During this time she documented traffic stops in her weeklies that she did not really make. The department had implemented a system requiring that a separate form be filled out for each stop that contained information necessary to deflect claims of racial profiling. She did not fill out these forms for the made up stops. The investigation began as a result of a department-wide audit reconciling the profiling forms with the weeklies and other documents. Officer G insisted in two internal affairs interviews that she had never documented any stops on her weeklies that she did not in fact make. An Administrative Law Judge of the Office of Administrative Hearings found she had falsified her weeklies on six specific occasions by documenting stops she did not make and lied about it to internal affairs. The Board revoked her peace officer certification for falsifying her weeklies and lying to IA after Garrity admonitions.

CASE NO. 8

DOMESTIC VIOLENCE

Officer H, during an argument with his wife physically controlled her by grabbing her arms and trying to get her to sit down. In doing this he caused her to fall over some plastic tubs that were in the living room. The wife got up and punched her husband twice in his shoulder. Both were arrested and charged with assault. Officer H completed court ordered counseling, participated actively and the charges were dismissed. The officer did not appear or defend himself before AZ POST. The Board found misfeasance, malfeasance or nonfeasance in office and suspended his peace officer certification for a period of six months from the date he left the agency's employment.

CASE NO. 9

CHEATING IN THE ACADEMY

Cadet I was observed looking at other recruits answer sheets during academy exams. When he was questioned about it he admitted cheating. He was dismissed from the academy. The Board imposed a two year denial of eligibility to apply for certification.

CASE NO. 10

LYING TO SUPERVISOR

Officer J was patrolling and observed a vehicle turn its lights off and pull into a gated residential driveway. He followed shortly and noticed the front door of the residence standing open. He entered the residence through the open door and encountered a 20 year old female who lived there. She did not realize the door was open. He checked the residence for safety and then engaged the woman in conversation for about an hour. He told her he got off at 1:00 a.m. and offered to return at that time. He did return at 1:10 a.m. dressed in dark civilian clothes and knocked on the door. She answered the door, said she was sleeping and he then left. Several days later, he returned and left a note on the woman's car. The young woman's mother made a complaint to the department. Officer J's sergeant asked him about the complaint. He denied going to the house after getting off work and lied to his sergeant about some details of the initial encounter. He was later interviewed by IA and given the Garrity admonitions. He was truthful about the incidents at that point. He did not appear before the Board or defend himself. The Board found misfeasance, malfeasance or nonfeasance in office and suspended his peace officer certification for one year retroactive to the date of termination from the agency.

The Board adopted consent agreements calling for voluntary relinquishments in the following fact situations. The scenarios stated here reflect the allegations giving rise to the POST case, but the facts were not proven before the Board.

- An officer was convicted of Disorderly Conduct (fighting).
- An officer repeatedly misused ACJIS to obtain information for personal use, failed to complete reports and failed to properly impound evidence.
- An officer kept a juvenile female with him for nearly four hours while giving her a ride home, spoke inappropriately, drove inappropriately and took her to the jail and the property room contrary to policy and law.
- A deputy had actually used marijuana over 100 times and had sold marijuana prior to becoming certified. He also lied on his application about the drug involvement.

On May 17, 2006, and, June 21, 2006, the Board voted to close out the following cases without initiating a Complaint for disciplinary action. This is neither a finding that no misconduct occurred nor a comment that the Board condones the conduct. In fact, the Board's rules are very broad and all misconduct violates one or more of the disciplinary rules. The Board may choose not to initiate a Complaint in a case even though there is misconduct if, considering all the circumstances, including agency discipline, the conduct does not rise to the level requiring a formal administrative proceeding. In many of these cases, the Board makes a statement that the conduct is an important consideration for a future hiring agency. By not taking disciplinary action, the Board leaves the determination of how serious the misconduct was to the discretion of an agency head who may choose to consider the officer for appointment. The Board relies on and enforces the statutory requirement of A.R.S. §41-1828.01 that agencies share information about misconduct with each other, even in cases where the Board has chosen not to take additional independent disciplinary action. Additionally, in some of these cases, further information is necessary before a charging decision can be properly made.

- A lieutenant reported to the scene of a fellow officer's suicide after having consumed alcohol.
- An officer may have been untruthful when he denied recalling whether he made a particular statement.
- A deputy told his supervisor that he had conducted the required vehicle safety inspection prior to beginning their shift, when he had not.
- An officer failed to submit reports in a timely manner over a year-long period.
- Two officers misled investigators (prior to Garrity) about the nature of their relationship both saying they were just friends when they were involved in an intimate sexual relationship.
- An officer, while off duty, drove his personal vehicle under the influence of alcohol and left the scene of a one vehicle accident.